

## **BILL ANALYSIS**

C.S.H.B. 1506  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, if a person has been harmed as a result of domestic violence, there often is no way for the victim to know if the attacker is close enough to harm the victim again until it is too late to escape the location in which the person is in immediate danger. Even if a victim is able to get a protective order from a court, the victim often has no way of knowing if the offender has violated the order until a time when the offender is close enough to hurt the victim again. Current law is not structured to completely ensure that the offender is unable to threaten or harm a victim because the offender is able to be near the victim without the victim knowing the offender is in the vicinity.

C.S.H.B. 1506 grants a judge discretion in ordering a global positioning monitoring device to be issued to an offender at the time the offender is released on bond for an offense involving family violence or to an offender who is the cause of an order for emergency protection resulting from an offense involving family violence, sexual assault, aggravated sexual assault, or stalking.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1506 amends the Code of Criminal Procedure to authorize a magistrate to require a defendant charged with an offense involving family violence, as a condition of release on bond, or a defendant who is the cause of an order of emergency protection resulting from an offense involving family violence, sexual assault, aggravated sexual assault, or stalking, to refrain from going to or near a residence, school, place of employment, or other specified location frequented by an alleged victim of the offense; to carry or wear a global positioning monitoring system device and to pay the costs associated with operating the system in relation to the defendant; or, with the victim's consent, to pay the costs associated with providing the victim with an electronic receptor device that is capable of receiving the monitoring system information from the device carried or worn by the defendant and that notifies the victim if the defendant is at or near a location the defendant has been ordered to refrain from going to or near. The bill authorizes a magistrate to allow a defendant to perform community service in lieu of paying the costs related to the monitoring and receptor device, if the defendant is indigent.

C.S.H.B. 1506 requires a magistrate, before imposing conditions relating to the locations to which a defendant must refrain from going or nearing, to afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and to consider the victim's request, if any, in determining those locations. The bill requires a magistrate who imposes location restrictions on a defendant to specifically describe the locations that the defendant has been ordered to avoid and the minimum distances, if any, that the defendant must maintain from those locations. The bill requires a magistrate, before ordering a defendant to pay the costs of an electronic reception device for a victim, to provide the victim with the following information: the victim's right to participate or refuse to participate

in a monitoring system and the procedure for requesting that the magistrate terminate the victim's participation; the manner in which the monitoring system technology functions and the risks and the limitations of the technology and the extent to which the system will track and record the victim's locations and movements; any locations that the defendant is ordered to refrain from going to or nearing and the minimum distances, if any, that the defendant must maintain from those locations; any sanctions that the court may impose on the defendant for violating a condition of bond; the procedure that the victim is to follow and available support services for the victim if the defendant violates a condition of the bond or if the monitoring system equipment fails; community services available to assist the victim that address the consequences of family violence; and the fact that the victim's communication with the court concerning the monitoring system and any restrictions imposed on the defendant's movements are not confidential.

C.S.H.B. 1506 requires a magistrate to provide an alleged victim who participates in a monitoring system with the name and telephone number of appropriate law enforcement personnel whom the victim may call to request immediate assistance if the defendant violates a condition of bond. The bill requires the magistrate, in determining whether to order a defendant to participate in a monitoring system program, to consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or threaten the alleged victim before trial. The bill authorizes an alleged victim to request that the magistrate terminate the victim's participation in the monitoring system at any time and prohibits the magistrate from imposing sanctions on the victim for requesting termination of participation or for refusing to participate in the monitoring system. The bill requires a magistrate that imposes a monitoring system condition on a defendant to order the entity that operates the monitoring system to notify the court and the appropriate law enforcement agency if the defendant violates a condition of bond. The bill does not limit the authority of the magistrate to impose any other reasonable conditions of bond or enter any order of protection under other applicable law. The bill defines "family violence" and "global positioning monitoring system."

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1506 differs from the original by adding a provision authorizing a magistrate to require a defendant charged with an offense involving family violence, sexual assault, aggravated sexual assault, or stalking, as a condition of an order of emergency protection, to participate in a global positioning monitoring system and to be subject to the same monitoring requirements as a defendant charged with an offense involving family violence who is released on bond.